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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,498	11/06/2001	Brian M. Curtis	2000P09042US01	6798
24500	7590	12/09/2003	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			GIBSON, RANDY W	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,498

Applicant(s)

CURTIS ET AL.

Examiner

Randy W. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In the applicant's response to the last office action, the applicant makes the remark:

"The examiner argues that 'normal' in a geometric sense means 90 degrees, i.e. a right angle. There is nothing in the subject application that limits the term 'normal' to a 90 degree interpretation as argued by the examiner. The examiner has absolutely no basis for this assumption."

In response to the applicant's contention that there is "absolutely no basis for this assumption", the examiner quotes from *Webster's Ninth New Collegiate Dictionary* (©1990):

¹normal: 1: PERPENDICULAR; *esp*: perpendicular to a tangent at a point of tangency. 2: according with, constituting, or not deviating from a norm, rule, or principle.

It would appear from applicants remarks that he is trying to expressly disclaim definition number 1 of "normal" (i.e.: "perpendicular") and is limiting himself to definition number 2 (i.e.: "not deviating from a rule"). So it would appear that applicant is trying to limit "normal" to mean "toward the floor of the passenger compartment". However the written description still doesn't say this and applicant made no attempt to clarify the specification

When applicant amended the claims, he seems to actually makes matters worse by amending the claims to read :

"said beam member being deflectable in response to an overload force applied to said seat track assembly in a direction opposite to the direction of said weight force application to prevent failure of said sensor assembly."

Apparently applicant is trying to say that the "direction of said weight force application" is the direction toward the floor board while the direction "opposite" is toward the ceiling panel (or toward the upper surface of the seat), but for some reason the applicant does not use clear, unambiguous language to express his meaning. The "direction of weight force application" is a variable vector since the direction of application of various forces on the seat obviously change depending on what is happening to the vehicle. See *MPEP* § 2173.05(b).

The applicant also makes the following remark:

"The examiner further argues that even "if end 56 of element 56 is not pinned to the base member 24, since the cross hatching in the drawing is the same for element 34 as the cross hatching for element 44, one has to assume that the two elements are made from the same material Applicant strongly disagrees with the examiner's assumption. Applicant respectfully requests that the examiner indicate where in the *MPEP* support is found for this assertion."

In response to applicant's request, the examiner notes that on page 600-95 of the *MPEP*, one sees acceptable standard cross-hatching for various materials. From the

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applicant's choice of cross-hatching, it appears that the applicant is stating, at least, that element 34 is made from some type of metal. See also 37 CFR § 1.84(n).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "direction of weight force application" is a variable vector since the direction of application of various forces on the seat obviously change depending on what is happening to the vehicle. See *MPEP* § 2173.05(b).

Conclusion

3. Claims 1-19 would be allowable over the art of record if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

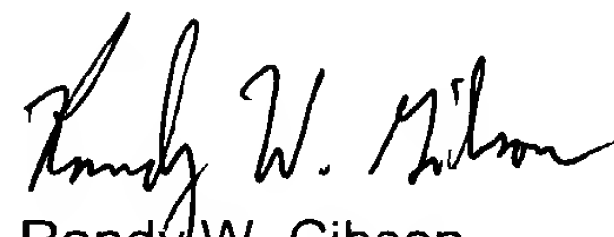
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.


Randy W. Gibson
Primary Examiner
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